

# SENATE BILL 77

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By: **Senator Kelley**

Introduced and read first time: January 16, 2012

Assigned to: Finance

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## A BILL ENTITLED

1 AN ACT concerning

2 **Life Insurance and Annuities – Unfair Claim Settlement Practices – Failure**  
3 **to Cross-Check Death Master File**

4 FOR the purpose of requiring an insurer that issues or delivers a policy of life  
5 insurance or an annuity contract in the State to perform a cross-check of the  
6 insurer's in-force life insurance policies, annuity contracts, and retained asset  
7 accounts against a certain death master file to identify any death benefit  
8 payments that may be due as a result of the death of an insured, annuitant, or  
9 account holder; requiring the insurer to perform the cross-check at certain  
10 intervals and in a certain manner; requiring the insurer to take certain actions,  
11 within a certain time period, if the cross-check results in a potential match with  
12 an insured, annuitant, or account holder; prohibiting the insurer from charging  
13 certain persons for any fees or costs incurred by the insurer in connection with  
14 complying with certain provisions of this Act; authorizing the Maryland  
15 Insurance Commissioner to adopt certain regulations; providing that the failure  
16 of the insurer to comply with any provision of this Act or any regulation adopted  
17 under this Act is an unfair claim settlement practice under certain provisions of  
18 law; defining a certain term; and generally relating to the payment of death  
19 benefits under life insurance policies, annuity contracts, and retained asset  
20 accounts.

21 BY adding to

22 Article – Insurance  
23 Section 16-118  
24 Annotated Code of Maryland  
25 (2011 Replacement Volume)

26 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
27 MARYLAND, That the Laws of Maryland read as follows:

28 **Article – Insurance**

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 16-118.

2 (A) IN THIS SECTION, "DEATH MASTER FILE" MEANS:

3 (1) THE SOCIAL SECURITY ADMINISTRATION'S DEATH MASTER  
4 FILE; OR

5 (2) ANY OTHER DATABASE OR SERVICE THAT IS AT LEAST AS  
6 COMPREHENSIVE AS THE SOCIAL SECURITY ADMINISTRATION'S DEATH  
7 MASTER FILE FOR DETERMINING THAT AN INDIVIDUAL REPORTEDLY HAS DIED.

8 (B) (1) AN INSURER THAT ISSUES OR DELIVERS A POLICY OF LIFE  
9 INSURANCE OR AN ANNUITY CONTRACT IN THE STATE SHALL PERFORM A  
10 CROSS-CHECK OF THE INSURER'S IN-FORCE LIFE INSURANCE POLICIES,  
11 ANNUITY CONTRACTS, AND RETAINED ASSET ACCOUNTS AGAINST THE LATEST  
12 VERSION OF A DEATH MASTER FILE TO IDENTIFY ANY DEATH BENEFIT  
13 PAYMENTS THAT MAY BE DUE UNDER THE POLICIES, CONTRACTS, OR ACCOUNTS  
14 AS A RESULT OF THE DEATH OF AN INSURED, ANNUITANT, OR ACCOUNT  
15 HOLDER.

16 (2) AN INSURER SHALL PERFORM THE CROSS-CHECK REQUIRED  
17 UNDER PARAGRAPH (1) OF THIS SUBSECTION:

18 (I) AT REGULAR INTERVALS, ON AT LEAST A QUARTERLY  
19 BASIS; AND

20 (II) IN GOOD FAITH, USING CRITERIA REASONABLY  
21 DESIGNED TO IDENTIFY INDIVIDUALS WHOSE DEATH WOULD REQUIRE THE  
22 PAYMENT OF BENEFITS BY THE INSURER UNDER A LIFE INSURANCE POLICY,  
23 ANNUITY CONTRACT, OR RETAINED ASSET ACCOUNT.

24 (C) (1) IF A CROSS-CHECK PERFORMED BY AN INSURER UNDER  
25 SUBSECTION (B) OF THIS SECTION RESULTS IN A POTENTIAL MATCH WITH AN  
26 INSURED, ANNUITANT, OR ACCOUNT HOLDER, THE INSURER, WITHIN 90 DAYS  
27 AFTER THE CROSS-CHECK WAS PERFORMED, SHALL:

28 (I) CONDUCT A GOOD FAITH EFFORT TO CONFIRM THE  
29 DEATH OF THE INSURED, ANNUITANT, OR ACCOUNT HOLDER USING OTHER  
30 AVAILABLE RECORDS AND INFORMATION;

1                   **(II) DETERMINE WHETHER BENEFITS ARE DUE UNDER THE**  
2 **APPLICABLE LIFE INSURANCE POLICY, ANNUITY CONTRACT, OR RETAINED**  
3 **ASSET ACCOUNT; AND**

4                   **(III) IF BENEFITS ARE DUE UNDER THE POLICY, CONTRACT,**  
5 **OR ACCOUNT:**

6                   1.    **USE GOOD FAITH EFFORTS TO LOCATE THE**  
7 **BENEFICIARY; AND**

8                   2.    **PROVIDE TO THE BENEFICIARY THE**  
9 **APPROPRIATE CLAIMS FORMS AND INSTRUCTIONS NECESSARY TO MAKE A**  
10 **CLAIM.**

11                  **(2) AN INSURER SHALL DOCUMENT THE GOOD FAITH EFFORTS**  
12 **MADE TO:**

13                   **(I) CONFIRM THE DEATH OF AN INSURED, ANNUITANT, OR**  
14 **ACCOUNT HOLDER UNDER PARAGRAPH (1)(I) OF THIS SUBSECTION; AND**

15                   **(II) LOCATE A BENEFICIARY UNDER PARAGRAPH (1)(III)1**  
16 **OF THIS SUBSECTION.**

17                  **(D) AN INSURER MAY NOT CHARGE AN INSURED, AN ANNUITANT, AN**  
18 **ACCOUNT HOLDER, A BENEFICIARY, OR ANY OTHER PERSON FOR ANY FEES OR**  
19 **COSTS INCURRED BY THE INSURER IN CONNECTION WITH COMPLYING WITH**  
20 **SUBSECTIONS (B) AND (C) OF THIS SECTION.**

21                  **(E) THE COMMISSIONER MAY ADOPT REGULATIONS TO IMPLEMENT**  
22 **THIS SECTION, INCLUDING REGULATIONS THAT:**

23                   **(1) SPECIFY THE CRITERIA AN INSURER MUST USE TO PERFORM**  
24 **THE CROSS-CHECK OF A DEATH MASTER FILE REQUIRED UNDER SUBSECTION**  
25 **(B) OF THIS SECTION;**

26                   **(2) SPECIFY WHAT CONSTITUTES GOOD FAITH EFFORTS FOR**  
27 **PURPOSES OF SUBSECTIONS (B)(2)(II) AND (C)(1)(I) AND (III)1 OF THIS SECTION**  
28 **AND THE MANNER IN WHICH THOSE EFFORTS MUST BE DOCUMENTED BY AN**  
29 **INSURER;**

30                   **(3) SPECIFY THE INFORMATION ABOUT BENEFICIARIES UNDER**  
31 **LIFE INSURANCE POLICIES, ANNUITY CONTRACTS, AND RETAINED ASSET**  
32 **ACCOUNTS THAT AN INSURER MUST OBTAIN AND MAINTAIN IN ITS RECORDS TO**

1 FACILITATE THE IDENTIFICATION OF AND PAYMENT OF BENEFITS TO THE  
2 BENEFICIARIES; AND

3 (4) ESTABLISH RECORD KEEPING AND REPORTING  
4 REQUIREMENTS TO DETERMINE COMPLIANCE OF INSURERS WITH THIS  
5 SECTION.

6 (F) THE FAILURE OF AN INSURER TO COMPLY WITH ANY PROVISION OF  
7 THIS SECTION OR ANY REGULATION ADOPTED UNDER THIS SECTION IS AN  
8 UNFAIR CLAIM SETTLEMENT PRACTICE UNDER TITLE 27, SUBTITLE 3 OF THIS  
9 ARTICLE.

10 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
11 October 1, 2012.